

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	February 16, 2018
Time of Incident:	9:33 am
Location of Incident:	████████ Street, Chicago, IL 60617
Date of COPA Notification:	February 16, 2018
Time of COPA Notification:	3:49 pm

The complaint, Mr. ██████████ was at Mr. ██████████ residence when Chicago Police Department Narcotics Team ██████████ executed a search warrant on ██████████ and his residence. During the execution of the search warrant, officers detained and searched ██████████ Officer ██████████ recovered and seized \$640 from ██████████ The officer provided ██████████ receipts for the seized funds and released him. Later at the ██████████ District, Officer ██████████ observed canine ██████████ positively indicate for a presence of narcotics on the \$640. Later in the day, ██████████ provided a statement COPA, during which he made the below allegations.

## II. INVOLVED PARTIES

Involved Officer #1:	Police Officer ██████████ Star # ██████████ Employee ID # ██████████ Appointment Date ██████████, 2004, Unit ██████████ Male, Black, Birth Date ██████████, 1980.
Subject #1:	█████████████████████ Male, Black, Birth Date ██████████ 1971.

## III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████	1. Unlawfully detained Mr. ██████████ in violation of Rule 6.  2. Unlawfully searched Mr. ██████████ in violation of Rule 6.  3. Unlawfully seized \$640.00 from Mr. ██████████ in violation of Rule 6.	Unfounded  Exonerated  Exonerated
Unknown Officer	1. Unlawfully detained Mr. ██████████ in violation of Rule 6.	Exonerated

## IV. APPLICABLE RULES AND LAWS

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Rules

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1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

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## General Orders

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1. G06-01-01: Field Arrest Procedures, effective December 8, 2017

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## Special Orders

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1. S04-19: Search Warrants, effective September 3, 2015
2. S07-01-02: Inventorying Money, effective April 14, 2015

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## Federal Law

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1. United States Constitution, Amendment IV

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**V. INVESTIGATION<sup>1</sup>****a. Interviews**

In a **statement to COPA**<sup>2</sup> on February 16, 2018, Mr. [REDACTED] stated he was exiting [REDACTED] residence with [REDACTED] when he observed several CPD officers in plain clothes approaching the residence. [REDACTED] was standing on the front porch and [REDACTED] was near the front door at that point. Officers yelled that they were doing a raid and told [REDACTED] to put his hands up and get on the ground, which he did. One of the officers handcuffed [REDACTED] and brought him into the house while the officers searched it. The officers retrieved some items from the second floor. They then searched [REDACTED] including looking in his wallet and removing money from him. One of the officers said they were going to inventory the money as part of their investigation. The officers said [REDACTED] could go to the police station later to get a receipt that he could bring to court to prove that the money was his through legitimate means. During the encounter, the officers accused [REDACTED] of supplying drugs to [REDACTED] to which [REDACTED] did not respond.

In a **statement to COPA**<sup>3</sup> on April 17, 2018, **Accused Officer** [REDACTED] stated that he and his team were executing a search warrant on [REDACTED] and his residence, when he observed [REDACTED] and [REDACTED] standing in the front doorway. Additionally, Officer [REDACTED] observed [REDACTED] throwing several items. Officer [REDACTED] detained and searched [REDACTED] during which he recovered \$105 and narcotics (crack cocaine). Simultaneously, an unidentified officer<sup>4</sup> detained [REDACTED]. After [REDACTED] and [REDACTED] were secured, Officer [REDACTED] recovered the items [REDACTED] had thrown and discovered they were also narcotics (also crack cocaine).

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Att. 5.

<sup>3</sup> Att. 38.

<sup>4</sup> Officer [REDACTED] did not know which member of the [REDACTED] Narcotics Team detained [REDACTED]

Officer [REDACTED] conducted a pat down of [REDACTED] to check for weapons or any items listed in the search warrant. Officer [REDACTED] explained that the pat down he conducted was common practice during the execution of a narcotics search warrant to ensure that detained persons are not armed, or concealing items listed in the search warrant. During the pat down, Officer [REDACTED] detected a large sum of money. Officer [REDACTED] explained that he can discern money from other items because in his experience he has encountered numerous instances in which large sums of money are folded and placed in a pocket. Additionally, Officer [REDACTED] explained that money can be connected to narcotics sales. Officer [REDACTED] recovered the money and determined it was \$640. Officer [REDACTED] explained that while [REDACTED] was not a target of the search warrant, [REDACTED] is known as a person involved in the narcotics trade. Additionally, Officer [REDACTED] explained that the team was aware of [REDACTED] presence in the residence when they elected to execute the search warrant. Further, Officer [REDACTED] was aware of at least two prior occasions where [REDACTED] was present during controlled buys from [REDACTED] one of which occurred inside [REDACTED] residence.

In a **statement to COPA**<sup>5</sup> on April 5, 2018, **Witness Officer** [REDACTED] provided essentially the same information as Officer [REDACTED]. Additionally, Officer [REDACTED] stated that it is normal practice to conduct a pat down of all individuals detained during the execution of a search warrant, because it is common to encounter armed individuals during narcotics investigations. Officer [REDACTED] did not know who detained [REDACTED].

#### **b. Documentary Evidence**<sup>6</sup>

**A Complaint for a Search Warrant**<sup>7</sup> and **Search Warrant** [REDACTED] detail that a confidential informant completed a controlled buy from [REDACTED] inside of his residence. After the controlled buy, Officer [REDACTED] sought and was granted a search warrant. The warrant authorized the search of [REDACTED] and the residence at [REDACTED] Street for cocaine, any paraphernalia used in the weighing, cutting or mixing of illegal drugs, any money, and any records detailing illegal drug transactions.

**A Narcotic's Division Supplementary Report**<sup>9</sup> details essentially the same information provided by Officers [REDACTED] and [REDACTED].

**Inventory Report** [REDACTED] and **Evidence Recovery Log**<sup>11</sup> detail that, among other evidence, Officer [REDACTED] recovered \$640.00 from [REDACTED].

**A Canine Supplementary Report**<sup>12</sup> details that Officer [REDACTED] observed canine [REDACTED] positively indicate that narcotics were present on the \$640.00 recovered from [REDACTED].

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<sup>5</sup> Att. 33.

<sup>6</sup> COPA requested In-Car Camera and Body Worn Footage from CPD, however CPD informed COPA that there were no recordings of this incident. The involved officers are assigned to Unit [REDACTED] which does not have body-worn cameras. Att. 20.

<sup>7</sup> Pgs. 5 – 8 of Att. 31.

<sup>8</sup> Atts. 13 and pages 5-8 of Att. 31

<sup>9</sup> Att. 31.

<sup>10</sup> Att. 11.

<sup>11</sup> Page 9 of Att. 31.

<sup>12</sup> Att. 28 and page 10 of Att. 31.

## VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

## VII. ANALYSIS

During the execution of a search warrant, peace officers may reasonably detain and search any person at the location to protect himself from attack or prevent the disposal or concealment of any item particularly described in the warrant.<sup>13</sup> However, a detained person who is not named in a search warrant can be subjected to a search only if a peace officer can reasonably articulate that the person has a significant connection to the location or the person described in the search warrant.<sup>14</sup>

Here, it is undisputed that [REDACTED] was present when the search warrant was executed. Since [REDACTED] was at the location, he was subjected to detention by the officers. COPA determined that Officer [REDACTED] did not detain [REDACTED] therefore, the allegation of an unlawful detention against Officer [REDACTED] is **Unfounded**. Because [REDACTED] detention was clearly lawful and proper, the allegation that an unknown officer unlawfully detained him is **Exonerated**.

<sup>13</sup> *People v. Connor*, 358 Ill.App.3d 945 (2005); 725 ILCS 5/108-9.

<sup>14</sup> *People v. Gutierrez*, 109 Ill.2d 59 (1985); *People v. Miller*, 74 Ill.App.3d 177 (1979); 725 ILCS 5/108-9.

Additionally, Officer [REDACTED] was aware of [REDACTED] presence for at least two prior controlled buys from [REDACTED] one of which occurred in the residence. Further, Officer [REDACTED] was aware that [REDACTED] was a person of interest for his involvement in the narcotics trade. Officer [REDACTED] related that prior to searching [REDACTED] he had recovered a quantity of narcotics from the residence and [REDACTED] person. Based on this evidence, COPA determined that Officer [REDACTED] decision to search [REDACTED] was based on a reasonable articulable suspicion that [REDACTED] had a significant connection to both [REDACTED] and the residence, and was proper, and lawful. This determination is bolstered by canine [REDACTED] indication that narcotics were present on the seized \$640. According to [REDACTED] the officers provided him a receipt for the money and informed him about the process to get it back if he was able to prove he obtained it through legitimate means. COPA finds the search of [REDACTED] and the seizure of his \$640 were lawful and proper. Therefore, these allegations against Officer [REDACTED] are **Exonerated**.

### VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED]	1. Unlawfully detained Mr. [REDACTED] in violation of Rule 6.  2. Unlawfully searched Mr. [REDACTED] in violation of Rule 6.  3. Unlawfully seized \$640.00 from Mr. [REDACTED] in violation of Rule 6.	Unfounded  Exonerated  Exonerated
Unknown Officer	1. Unlawfully detained Mr. [REDACTED] in violation of Rule 6.	Exonerated

Approved:

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July 30, 2019

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Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

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Date

**Appendix A**

Assigned Investigative Staff

<b>Squad#:</b>	5
<b>Investigator:</b>	[REDACTED]
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	Andrea Kersten